

Order

Michigan Supreme Court
Lansing, Michigan

April 27, 2007

Clifford W. Taylor,
Chief Justice

133043

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 133043
COA: 273454
Oceana CC: 05-005053-FC

DAVID ALAN REED,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the November 9, 2006 order of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we VACATE the defendant's sentence, and we REMAND this case to the Oceana Circuit Court for resentencing under properly scored guidelines. *People v Kimble*, 470 Mich 305 (2004). The record does not currently indicate that acts of sexual penetration occurred arising out of the sentencing offenses. If defendant is scored points for OV 11, the trial court must indicate that the acts of sexual penetration "arose out of" the sentencing offenses. MCL 777.41(2)(a). If defendant is not scored points for OV 11, to the extent that the record shows a continuing pattern of criminal behavior involving three or more crimes against a person, OV 13 should be scored at 25 points. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining question presented should be reviewed by this Court.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 27, 2007

Corbin R. Davis

Clerk